

Within thirty (30) days of the hearing, the Assistant Secretary shall issue a written ruling on the appeal confirming, modifying or reversing the decision of the Director of Education. In the case of a ruling not reversing the Director of Education's decision, the Assistant Secretary shall state in detail the basis for his/her ruling. The ruling of the Assistant Secretary on an appeal shall be final for the Department of the Interior.

**§ 41.28 Criminal penalties.**

Persons submitting or causing to be submitted to the Bureau any false information in connection with any application, report, or other document, upon which the provision of the Federal financial assistance, or any other payment of Federal funds, is based, may be subject to criminal prosecution under provisions such as sections 287, 371, or 1001 of title 18, U.S. Code.

**PART 42—STUDENT RIGHTS AND DUE PROCESS PROCEDURES**

Sec.

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AUTHORITY: 5 U.S.C. 301.

SOURCE: 39 FR 32741, Sept. 11, 1974, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

**§ 42.1 Purpose.**

The regulations in this part govern establishing programs of student rights and due process procedures in Bureau of Indian Affairs schools and in schools that are operating under contract with the Bureau of Indian Affairs.

**§ 42.2 Application to Bureau schools.**

All Bureau of Indian Affairs schools shall be governed by the regulations set forth in this part and said regulations shall be expressly included as a part of the local school regulations of each Bureau of Indian Affairs school. Upon admission, all students of Bureau of Indian Affairs schools shall be given a copy of the school regulations governing the conduct of students and

shall be notified of any amendments thereto.

**§ 42.3 Rights of the individual student.**

Individual students at Bureau of Indian Affairs schools have, and shall be accorded, the following rights:

- (a) The right to an education.
- (b) The right to be free from unreasonable search and seizure of their person and property, to a reasonable degree of privacy, and to a safe and secure environment.
- (c) The right to make his or her own decisions where applicable.
- (d) The right to freedom of religion and culture.
- (e) The right to freedom of speech and expression, including symbolic expression, such as display of buttons, posters, choice of dress, and length of hair, so long as the symbolic expression does not unreasonably and in fact disrupt the educational process or endanger the health and safety of the student or others.
- (f) The right to freedom of the press, except where material in student publications is libelous, slanderous, or obscene.
- (g) The right to peaceably assemble and to petition the redress of grievances.
- (h) The right to freedom from discrimination.
- (i) The right to due process. Every student is entitled to due process in every instance of disciplinary action for alleged violation of school regulations for which the student may be subjected to penalties of suspension, expulsion, or transfer.

**§ 42.4 Due process.**

Due process shall include:

- (a) Written notice of charges within a reasonable time prior to a hearing. Notice of the charges shall include reference to the regulation allegedly violated, the facts alleged to constitute the violation, and notice of access to all statements of persons relating to the charge and to those parts of the student's school record which will be considered in rendering a disciplinary decision.
- (b) A fair and impartial hearing prior to the imposition of disciplinary action